IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 01.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.511 of 2006

Rudhrakotti ... Petitioner

vs.

1. The Commissioner of Police,
Greater Chennai, Chennai-600 008.

2. Government of Tamil Nadu,
Rep. by its Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

3. The Superintendent,
Central Prison, Chennai. ... Respondents

For Petitioner : Mr.T.N.C.Kaushik
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to direct the respondents to produce detenu Viji @ Vijayaraghavan, S/o.Rudhrakotti, bodily before Court, to set him at liberty forthwith from Central Prison, Chennai, by calling for the records and setting aside the order of detention in NO.60/BDFGISV/2006 dated 02.03.2006 passed by the first respondent.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the detention order dated 02.03.2006, detaining his son by name Viji @ Vijayaraghavan as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation was received by the Government on 20.03.2006. File was submitted on the next day, ie., on 21.03.2006. Under Secretary dealt with the File on the same day and the Deputy Secretary on 22.03.2006. Finally, the Minister for Prohibition and Excise passed orders on 23.03.2006. However, the Rejection letter was prepared only on 10.04.2006, sent to the detenu for service on 11.04.2006 and served to him on 12.04.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 23.03.2006, there is no reason for taking time till 10.04.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.
JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

1. Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.
2. Commissioner of Police, Chennai.- 8
3. The Superintendent, Central Prison, Chennai. (In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law and Order), Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

NM(21.08.2006)

HCP. No.No.511 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/